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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,694	12/20/2001	Richard J. Nordin	JW-EMC-013	4191

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EXAMINER

LIM, KRISNA

ART UNIT PAPER NUMBER

2153

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,694

Applicant(s)

NORDIN ET AL.

Examiner

Krisna Lim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 68 and 69 is/are allowed.
- 6) ☒ Claim(s) 1-9, 12, 14-16, 21, 23-31, 34, 36-38, 43, 45-53, 56, 58-60, 65-67 and 70-72 is/are rejected.
- 7) ☒ Claim(s) 10, 13, 17-20, 22, 32, 35, 39-42, 44, 54, 57, 61-64 and 66 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Claims 1-72 are presented for examination.
2. The disclosure is objected to because on page 5, the text of the last paragraph should be updated with the current status of the cited applications such as U.S. Patent Application Serial No., a filing date, U.S. Patent No., and the issued date. Appropriate correction is required.
3. In claim 8, line 3, "note" is apparently misspelled.
4. 35 U.S.C. 101 reads as follows:
Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
5. Claims 23-66 and 70-71 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as being an intangible media (e.g., a computer program product including a computer **usable** medium having computer readable program code). A useful method would normally be considered statutory unless the specification defines "computer useable medium" or "computer readable medium" as intangible media such as signals, carrier waves, transmissions, optical waves, etc. Moreover, the program code to provide a useful operation to occur is non-statutory, since it is not tangible embodied in a manner so as to be executable as the only hardware is in an intended use statement. provide program signals is not tangibly embodied in a manner so as to be executable as the only hardware is in an intended use statement. Since it is the intent of the execution of a medium and not the medium itself that includes such hardware, thus this claim is not tangible.
6. Claims 45-66 and 70-72 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as being an abstract idea that can be doing by hand. For example, those steps of a file replication method can be done by

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a user's hand in conjunction with pen and paper. Thus, these claims lack assured result and therefore it is not concrete.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 1-9, 11-12, 14-16, 21, 23-31, 33-34, 36-38, 43, 45-53, 55-56, 58-60, 65, 67 and 70-72 are rejected under 35 U.S.C. 102(e) as being anticipated by Tanaka et al. [U.S. Patent No. 6,663,538.

9. Tanaka et al. anticipated (e.g., see Figs. 1-14) the invention substantially as claimed. Taking claim 1 as an exemplary claim, the reference disclosed in a computer network (e.g., see Fig. 1) having a plurality of nodes (110, 120 and 130 of Figs. 1, 3, 9 and 13), a file replication system (e.g., see the last 4 lines of the abstract, Duplication 220 of Fig. 9 and resource duplication process unit of Figs. 1-14) comprising:

a) means capable of receiving a file in any one said nodes (e.g., see Fig. 9, cols. 15-16, the abstract); and

b) means for replicating said file in all other of said node (e.g., see Fig. 9, cols. 15-16, the abstract).

10. As to claim 2, Tanaka et al. further anticipated wherein the file is an updated file and wherein the replicating means (duplication or back-up file) includes additional replication means (duplication of Fig. 9) for replicating the updated file in all other of said nodes (120s) in a manner that is network-topology independent (e.g., see cols. 15-16).

11. As to claim 3, Tanaka et al. further anticipated wherein the replicating means (duplication or back-up file) includes additional replication means (duplication of Fig. 9) for replicating the updated file in all other of said nodes (120s) in a manner that avoids a single point of failure (e.g., see col. 2 and 15-16).

12. As to claim 4, Tanaka et al. further anticipated wherein certain one of said nodes (110, 120 and 130) is the originator node (e.g., a master code, cols. 3, 15-16).

10. As to claims 5-9, Tanaka et al. further anticipated (e.g., see master node, slave nodes of Figs. 1, 3, 9 and 13) wherein the replicating means further comprises a master node having a back-up file (duplication or back-up file) and slave nodes having means for updating a particular file (duplication of Fig. 9, cols. 2 and 15-16).

13. As to claims 11, 12, 14-16 and 21, Tanaka et al. further anticipated wherein the replicating means (duplication or back-up file) includes a local workspace means having multiple source means for receiving the updated file (e.g., see col. 2, line 2) from a new-data-supplier group (a resource server, col. 1 (line 66) to col. 3) and a global workspace means for receiving the updated file (e.g., see cols. 15-16) from the local workspace means in preparation to download the updated file to any of said slave nodes upon request from said any of said slave nodes and a commanding means for obtaining the back-up file from the master node (e.g., see col. (line 49) to col. 3 (line 53), cols. 5-6, cols. 15-18).

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14. Claims 23-31, 33-34, 36-38, 45-53, 55-56, 58-60, 65 and 67-72 are similar in scope as of claims 1-9, 11-12, 14-16 and 21 and therefore claims 23-31, 33-34, 36-38, 45-53, 55-56, 58-60, 65 and 67 are rejected for the same reasons set forth above for claims 1-9, 11-12, 14-16, 21, 23.

15. Claims 10, 13, 17-20, 22, 32, 35, 39-42, 44, 54, 57, 61-64 and 66 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. Claims 68 and 69 are allowed.

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The references are cited in the Form PTO-892 for the applicant's review.

A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisna Lim whose telephone number is 571-272-3956 the examiner can normally be reached on Monday to Wednesday and Friday from 7:30 AM to 4:00 PM.

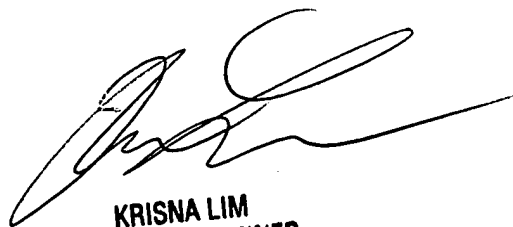
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess, can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KI

August 9, 2005

A handwritten signature in black ink, appearing to read 'Krisna Lim', is written over a faint, circular official stamp.

KRISNA LIM
PRIMARY EXAMINER